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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,183	01/26/2002	Richard Daigre	7604	4882

7590 11/06/2003

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EXAMINER
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KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/058,183

Applicant(s)

DAIGRE, RICHARD

Examiner

Bradley T King

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32 is/are allowed.
- 6) ☒ Claim(s) 1-29, 31, 33-34 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 9 has been amended to recite "deactivating means deactivating said pressurization means." The original disclosure fails to support this limitation as the disclosed deactivating means 40 deactivates the spring, not the pressure chamber..

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-8, and 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 21 recite "said bypass means". There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3, 6-7, 9-10, 12-14, 18, 20-21, 23-24, 26-27 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Muramoto(US# 6405837).

Muramoto discloses all the limitations of the instant claims including: a brake having a friction surface 132, a brake member 134, a mechanical activator 136, the mechanical activator being mounted to the intermediate member for movement between a first and second positions, a spring 162, means to connect the spring to the intermediate member, a cavity 130, the cavity being in the intermediate member 122, a piston (142, 200), the piston being in the cavity to define a chamber 172, connect means 202 to connect the piston to the spring and pressurization means 194-195 to pressurize the chamber to move the spring.

Regarding claim 6-7, Muramoto discloses a pressure plug 142, a spring plug 200, and means 202 interconnecting the two.

Regarding claim 12, Muramoto discloses a stop in the form of a wall in the cavity.

Regarding claims 13-14, Muramoto discloses a hydraulic motor (column 1, line 19) and also discloses two pressure ports 194-195 which feed pressure from the vehicle hydraulic system.

Claims 1-10, 12, 15-16, 18-24, 26, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson (US#2339415).

Larson discloses all the limitations of the instant claims including: a brake (see figure 2) having a friction surface, a brake member (36, 37), a mechanical activator (47, 55), the mechanical activator being mounted to the intermediate member for movement between a first and second positions, a spring 72, means to connect the spring to the intermediate member, a cavity, the cavity being in the intermediate member, a piston 124, the piston being in the cavity to define a chamber 126, connect means to connect the piston to the spring and pressurization means to pressurize the chamber to move the spring.

Regarding claim 6-7, Larson discloses a pressure plug 126, a spring plug (70, 76), and means interconnecting the two.

Regarding claim 9, Larson shows deactivating means 84.

Regarding claim 12, Larson discloses a stop 75.

Claims 1-10, 12, 15-24, 26, 28-29, 31, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (US#2328619).

Cox discloses all the limitations of the instant claims including: a brake (see figure 3) having a friction surface, a brake member (46, 48), a mechanical activator 45, the mechanical activator being mounted to the intermediate member 41 for movement between a first and second positions, a spring 51, means to connect the spring to the intermediate member, a cavity, the cavity being in the intermediate member, a piston 53, the piston being in the cavity to define a chamber, connect means to connect the piston to the spring and pressurization means 54 to pressurize the chamber to move the spring.

Regarding claim 6-7, Cox discloses a pressure plug 53, a spring plug 49-50, and means interconnecting the two.

Regarding claim 9, Cox shows deactivating means 53.

Regarding claim 12, Cox discloses a stop in the form of the two ends of rods 49 which stop further spring compression when they come into contact.

***Allowable Subject Matter***

Claim 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 32 is allowed.

### ***Response to Arguments***

Applicant's arguments filed 8/14/03 have been fully considered but they are not persuasive.

Applicant's arguments with regards to Muramoto are not persuasive. It is maintained that the disk brake of Muramoto is a "mechanical brake". While the applicant contends that the brake is hydraulic, it is noted that both the reference and the instant claimed invention are both spring applied, hydraulically released brakes. Muramoto shows a disk brake (132, 134, 136) which mechanically transmits a retarding force to shaft 138, via sliding movements of the brake elements.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BTK  
October 30, 2003

  
JACK LAVINGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3500